

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RODNEY BROWN,)	
)	
Plaintiff,)	
)	Cause No. 4:18-CV-389-MTS
v.)	
)	
CITY OF ST. LOUIS, <i>et al.</i>)	
)	
Defendants.)	
)	

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

COME NOW Defendants Matthew Boettigheimer, Steven Korte, Joseph Steiger, Phil Harden (referred to herein collectively as the “Individual Defendants”) and the City of St. Louis (“City”), and pursuant to Rule 56 of the Federal Rules of Civil Procedure, move this Court to grant summary judgment in their favor on all counts of Plaintiff’s Second Amended Complaint. Doc. 94. In support of this motion, Defendants state as follows:

1. In this suit, Plaintiff Rodney Brown (“Plaintiff”) alleges various constitutional violations and state law tort claims stemming from his arrest for a municipal peace disturbance violation by City police officers in 2016.
2. Plaintiff’s § 1983 claims in Counts I-III against the Individual Defendants fail because Plaintiff’s Constitutional rights were not violated in that probable cause existed for his arrest. *Joseph v. Allen*, 712 F.3d 1222, 1226 (8th Cir. 2013).
3. Plaintiff’s § 1983 claims in Counts I-III against the Individual Defendants further fail because there is no genuine issue of material fact that they are protected by qualified immunity because they did not violate clearly established statutory or constitutional

rights of which a reasonable person would have known. *Pearson v. Callahan*, 555 U.S. 223, 231 (2009).

4. The § 1983 *Monell* municipal policy claim in Count IV against the City also fails because there is no genuine issue of material fact that the City did not have an unconstitutional policy, practice or custom that caused Plaintiff's constitutional rights to be violated. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).
5. The *Monell* municipal policy claim against the City further fails because there is no genuine issue of material fact that the Individual Defendants did not violate Plaintiff's Constitutional rights. See e.g., *City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986) (per curiam).
6. Plaintiff's state law tort claims in Counts V and VI also fail because probable cause existed for Plaintiff's arrest and because the Individual Defendants are entitled to official immunity. *McLean v. Gordon*, 548 F.3d 613, 617 (8th Cir. 2008); *Kanagawa v. State*, 685 S.W.2d 831, 835 (Mo. banc 1985).
7. Finally, Plaintiff's purported state law Constitutional claim in Count VII fails because there is no private right of action permitting suits for monetary damages by private individuals resulting from violations of the Missouri Constitution. *Moss v. City of Arnold*, 2015 WL 630374, at *4-*5 (E.D. Mo. Feb. 13, 2015).

Defendants' Memorandum in Support of Their Motion for Summary Judgment and Statement of Uncontroverted Material Facts are filed along with this Motion.

WHEREFORE, Defendants respectfully request that this Court grant summary judgment in their favor on all remaining counts in Plaintiff's Second Amended Complaint as there is no genuine

issues of material fact to support any of Plaintiffs' allegations, and Defendants request that this Court grant any further relief the Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify this Motion was electronically filed with the Court on this 12th day of February 2021 for service by means of Notice of Electronic Filing upon all attorneys of record.

/s/ Erin K. McGowan